IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1288 OF 2005

Tata Iron & Steel Co.Ltd. & anr. .. Petitioners
v/s.
Union of India & ors. .. Respondents

Mr.H.R.Shetty i/by M/s.H.R.Shetty & Co. for petitioners.

Mr.M.I.Sethana with Mr.R. Ashokan for res.Nos.1 to 4.

Mr.M.P. Rao i/by M/s.Mulla & Mulla & CBC for res.Nos.5 & 6.

CORAM : H.L. GOKHALE &
J.P. DEVADHAR, JJ.

DATED : 9th December 2005

P.C. :

1. Heard the learned Counsel for the parties

2. This Petition is filed to seek refund of the demurrage charges paid by the petitioners to respondent No.5-Bombay Port Trust for the goods which were cleared way back in August 1995. The goods had arrived on 13th March 1995 and were cleared on 15th August 1995. It is claimed that there was delay in clearing the goods and for which the correspondence was entered into and the legality of charging the demurrage charges is now sought to be assailed after nearly more than ten years.

3. As far as the right of the Port Trust to claim the demurrage charges is concerned, Mr.Rao, learned Counsel appearing for respondent Nos.5 and 6, has drawn our attention to paragraph 66 of the judgment of the Apex Court in **International Airports Authority of India & ors. vs. Grand Slam International & ors. reported in (1995) 3 S.C.C. 151**. But that apart, as stated by the petitioners, they had entered into merely the correspondence. Mere entering into the correspondence cannot explain the delay in approaching the Court nearly after ten years.

4. Mr.Shetty, learned Counsel appearing for the petitioners, referred us to an unreported judgment of a Division Bench of this Court in **Apollo Paper Mills Ltd. vs. Union of India & ors. (Writ Petition No.5788 of 1997), decided on 28th October 2005** (in which one of us Devadhar, J. was a member). That is a case which is clearly distinguishable on facts and we do not think that the petitioners can get any advantage therefrom when in the present case they have waited for nearly ten years to approach this Court.

5. Petition is rejected.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR, J.)